

## Revenue Ruling 83-25

### Section 667 – Income for Benefit of Grantor

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Section 667 – Income for Benefit of Grantor, 26 CFR 1.677(a) –1: Income for benefit of grantor; general rule

(Also Sections 61, 104, 671, 672; 1.61-7, 1.104-1, 1.671-1, 1.672(a) – 1.)

Income for benefit of grantor; person injury damage award transferred to a trust for minor's benefit. A minor will be treated as the owner of a trust created for the minor's behalf by court order for the receipt of damages awarded as a result of a personal injury suit filed on the minor's behalf.

#### ISSUE

Will a minor be treated as the owner of a trust created by a court order as a result of a personal injury suit filed on the minor's behalf?

#### FACTS

M, a minor, was awarded damages as a result of a personal injury suit filed on the minor's behalf. Pursuant to the court order, an amount of damages was paid into the registry of the court and was transferred to a trust for the benefit of M. The court order designated Y, a corporation, as the trustee.

Under the terms of the trust as established by the court, Y may accumulate income or distribute both income and corpus as Y may determine to be reasonably necessary for the health, education, support, or maintenance of M. The trust will terminate and all property will be transferred to M after M reaches the age of 21. If M dies before reaching the age of 21 the trust property will pass to M's estate.

The trust is not subject to revocation by M, but is subject to amendment, modification, or revocation by the court at any time prior to termination. Under state law if the trust is revoked by the court prior to M's attaining the age of 18, the court may enter additional orders concerning the trust corpus and any undistributed income for the benefit of M. If the trust is revoked by the court after M has attained the age of 18, corpus and any undistributed income is paid over to M.

#### LAW AND ANALYSIS

Section 61(a) of the Internal Revenue code of 1954 provides that unless otherwise excluded by law, gross income means all income from whatever source derived, including interest.

Section 104(a)(2) of the Code provides that gross income does not include the amount of any damages received (whether by suit or agreement) on account of personal injuries or sickness.

Section 671 of the Code provides that in cases where the grantor or another person is regarded as the owner of any portion of a trust, there shall be included in computing taxable income and credits of the person who is regarded as the owner those items of income, deductions, and credits against tax of the trust which are attributable to that portion of the trust to the extent that such items would be taken into account under Chapter 1 of the Code in computing taxable income or credits against the tax of an individual. The circumstances under which the grantor is regarded as the owner of a portion of the trust are set forth in section 673 (reversionary interest), section 674 (power to control beneficial enjoyment), section 675 (administrative powers), section 676 (power to revoke), section 677 (income for benefit of grantor).

Section 672(a) of the Code defines the term “adverse party” as any person having a substantial beneficial interest in the trust that would be adversely affected by the exercise or nonexercise of a power which the person possesses respecting the trust. Section 672(b) defines the term “nonadverse party” as any person who is not an adverse party.

Section 677(a) of the Code provides that the grantor shall, in general, be treated as the owner of any portion of a trust, whether or not treated as such owner under section 674, whose income, without the approval or consent of any adverse party is, or in the discretion of the grantor or nonadverse party, or both, may be distributed to the grantor or the grantor’s spouse or held or accumulated for future distribution to the grantor or the grantor’s spouse.

In Revenue Ruling 67-203, 1967-1 C.B. 105, the Service holds that when the winnings from the Irish Sweepstakes by a minor who was a cash-method taxpayer were required to be held by an Irish court until the minor reached majority, the economic benefit doctrine applied and required the inclusion of the present value of the winnings in the minor’s gross income at the time the funds were paid over to the court.

M has received the economic benefit of the amount of damages paid into the registry of the court. The amount of damages awarded M as a result of the personal injury suit is excluded from M’s gross income by section 104(a)(2) of the Code. As the owner of the damages awarded, M is considered the grantor of the trust to which the damages were transferred.

Because under the provisions of the trust, the income and corpus of the trust will be distributed to M or held and accumulated for future distribution to M at the discretion of a nonadverse party, M will be treated as the owner of the trust pursuant to section 677(a) of the Code.

## HOLDING

A minor will be treated as the owner of a trust created for the minor's benefit by court order as a result of a personal injury suit filed on the minor's behalf.

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